In the High Court of Judicature at Madras

Dated: 08.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Appeal Nos.2619 to 2621 & 3778 to 3781 of 2002

B.Krishnamurthy .. Appellants in all appeals

Vs..

1.The Commissioner of
Agricultural Income Tax,
Chepauk, Chennai-600 005.

2.The Agricultural Income Tax
Officer, Coonoor. .. Respondents in all appeals

Writ Appeals filed under Clause 15 of the Letters Patent Appeal against the common order passed in W.P.Nos.4834/1993, 19255/1992, 1397/1993, 1396/1993 4831 to 4833/1993 respectively dated 06.04.2000.

WP NOS. 4834/93, 19255/92, 1397/93, 1396/93 & 4831 TO 4833/93:

Petitions presented to this Court under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the orders of the Agricultural Income-Tax Officer, Coonoor

1) dated 30.1.1992 in GIR No. 4B/91-92/CNR for the Assessment year 1991-92. (In WP No. 4834 of 1993)

2)dated 19.12.1991 in GIR No. 4/B/85-86/C for the Assessment year 1.4.1985 to 31.3.1986. (In WP No. 19255 of 1992)

3) dated 19.12.1991 in G.I.R.No. 4/B/86-87 CNR for the assessment year 1986-87.

4) dated 19.12.1991 in G.I.R.No.4/B//87-88 C for the assessment year 1987-88. (In WP No. 1396 of 1993)

5) dated 31.1.1992 in GIR No.4/B/88-89/CNR for the assessment

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year 1988-89. (In WP 4831 of 1993).

6) dated 31.1.1992 in GIR No. 4/B/89-90/CNR for the Assessment year 1989-90. (In WP No. 4832 of 1993).

7) dated 31.1.1992 in GIR No.4/B/90-91/CNR for the Assessment year 1990-91. (In WP No.4833 of 1993)

and confirmed by the Commissioner of Agricultural Income Tax, Chepauk, Madras in his order dated 30.10.1992 in R.P.No.51 to 57 of 1992, and quash the same.

For Appellants : Mr.V.Nicholas

For respondents : Mr.Haja Naziruddin,
Special Government Pleader (T)

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

Aggrieved by the common order dated 06.04.2000 made in W.P.Nos.19255 of 1992 etc. batch the appellant has filed the above appeals.

2. It is not in dispute that the petitioner/appellant is the same in all these matters. The challenge relates to the proceedings under the Agricultural Income Tax Act in respect of different assessment years.

3. Inasmuch as the learned single Judge referred to all the details as stated in the affidavit as well as the stand taken by the Department as mentioned in the counter affidavit, we are of the view that there is no need to refer the same once again.

4. Before us, the learned counsel appearing for the appellant mainly contended that inasmuch as the father of the petitioner viz., Belli Gowder died only on 26.01.1990, for the earlier assessment years, the Income Tax Officer has issued notice without proper verification and and proceeded as if the original assessee is no more. In other words, according to the learned counsel, the officers concerned have not applied their mind and did not take care to verify the date of death of the assessee viz., father of the appellant.

5. In the light of the said contention, we have verified the order of the Income Tax Officer as well as the order passed by the Revisional Authority. Admittedly, no such objection was raised before the said authorities. Though the said aspect was referred to

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in the affidavit, the same was not pressed before the learned single Judge. Apart from this, it is seen that the assessment was in respect of a Hindu undivided family and till the death of the appellant's father Belli Gowder, he was the kartha and after his death, the appellant herein became kartha of the Hindu undivided family. The particulars furnished show that even during the lifetime of the father, the appellant was an adult member of the family and received the notices for enquiry. The records produced by the authorities show that all the notices were acknowledged by the appellant right from 1985 till 1991 and inspite of the same, the appellant did not file returns and responded for the enquiry. In those circumstance, as rightly observed by the learned single Judge, there was no option except to pass orders based on judgment under Section 17(4) of the Tamil Nadu Agricultural Income Tax Act, 1955. It is clear that there was no co-operation or interest on the part of the appellant when proper notices had been acknowledged by him for finalising the assessment. In other words, inspite of the particulars that were given to him, the same were not utilised and therefore, the orders passed by the authorities based on judgment under Section 17(4) of the Act cannot be faulted with. These aspects were considered by the learned single Judge, who after finding fault with the writ petitioner/appellant and accepting the stand of the Department, dismissed all the writ petitions.

6. As discussed above, verification of the orders of the Revisional Authority as well as the learned single Judge amply show that the objection taken before us has not been projected. On the other hand, it is clear that the appellant was given adequate opportunity to submit his objection/material in respect of finalising the assessment and admittedly there was no response therefor. In such circumstances and in view of the categorical factual conclusion arrived at by the Revisional Authority as well as the learned single Judge, we do not find any valid ground for interference. On the other hand, we are in agreement with the said conclusion. Consequently, all the writ appeals fail and accordingly, they are dismissed. No costs.

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To

1.The Commissioner of
Agricultural Income Tax,
Chepauk, Chennai-600 005.

2.The Agricultural Income Tax
Officer, Coonoor.

2 CC TO MR.V. NICHOLAS, ADVOCATE SR NO.7558 & 7557

1 CC TO SPL. G.P,(TAXES) SR 7736

W.A. Nos.2619 to 2621 &
3778 to 3781 of 2002

08.02.2007

PV(CO)

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HIGH COURT OF JUDICATURE MADRAS
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